

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

PHUONG F. NGUYEN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. C22-1137-JCC

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable John C. Coughenour, United States District Judge:

This matter comes before the Court on Petitioner's motion to vacate, set aside, or correct his sentence, under 28 U.S.C. § 2255 (Dkt. No. 1). Before directing service and answer to a habeas corpus petition, the Court must determine whether the motion, the files, and the records of the case "conclusively show that the prisoner is entitled to no relief." 28 U.S.C. § 2255(b). The Court has reviewed the record, which does not conclusively show that Petitioner is entitled to no relief. Therefore, service is proper as to Petitioner's habeas petition. *See* 28 U.S.C. § 2255(b).

Accordingly, the Court hereby ORDERS as follows:

1. The Clerk is DIRECTED to send a copy of this order to Petitioner.
2. If not previously accomplished, electronic posting of this order and petition shall

1 effect service upon the United States Attorney of copies of the § 2255 motion and of  
2 all documents in support thereof.

- 3 3. Within 45 days after such service, the United States shall file and serve an answer in  
4 accordance with Rule 5 of the Rules Governing Section 2255 Cases in United States  
5 District Courts. As part of such answer, the United States should state its position as  
6 to whether an evidentiary hearing is necessary, whether there is any issue as to abuse  
7 or delay under Rule 9, and whether Petitioner's motion is barred by the statute of  
8 limitations. Additionally, the United States should state its position as to whether the  
9 Petitioner's § 2255 motion is precluded by the "Waiver of Appellate Rights and  
10 Rights to Collateral Attacks" outlined in ¶ 18 of the Plea Agreement (Dkt. No. 497 at  
11 12).
- 12 4. On the face of the answer, the United States shall note the answer for consideration  
13 by the Court on the fourth Friday after it is filed, and the Clerk shall note the answer  
14 accordingly. Petitioner may file and serve a reply to the answer no later than that  
15 noting date.

16 DATED this 22nd day of August 2022.

17 Ravi Subramanian  
18 Clerk of Court

19 s/Sandra Rawski  
20 Deputy Clerk